

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Suspension or Revocation of)
the License to Conduct Gambling Activities of:)
)
)
New Grove,)
Everett,)
)
Licensee.)
_____)

NO. CR 2009-01344

**AMENDED NOTICE OF
ADMINISTRATIVE CHARGES
AND OPPORTUNITY FOR AN
ADJUDICATIVE HEARING**
(Amendments appear in italics)

I.

The Washington State Gambling Commission issued New Grove, organization number 00-19249, the following licenses:

Number 65-06975, Authorizing Class "F7" (premises only) Amusement Game Activity.
Number 05-19595, Authorizing Class "D" Card Room Activity.

The licenses expire on March 31, 2010, and were issued subject to the licensee's compliance with state gambling laws and regulations.

II.

Rick Day, Director of the Washington State Gambling Commission, charges the licensee with the following violation(s) of the Washington State Gambling Act, 9.46 RCW, and WAC Title 230:

Summary:

The licensee failed to provide documents to the Gambling Commission relating to a \$16,000 contribution from a single source, as requested. *The licensee also failed to pay gambling taxes to the City of Everett, and owes \$38,619.38 in back taxes dating back to the fourth quarter of 2008.*

Facts:

1) On July 21, 2009, New Grove notified Commission staff that they had received a contribution from Fred O'Neal of approximately \$16,000 on June 25, 2009. It was stated in the New Grove correspondence that Mr. O'Neal would contribute an additional \$15,000 in the near future.

2) On July 22, 2009, Commission staff sent out a request letter to New Grove, requesting documentation relating to the contribution by Mr. O'Neal, with a due date of August 11, 2009. No documents were received by that date. Staff sent out a follow up request on August 13, 2009,

with a due date of August 24, 2009. No documents were received, *until October 2009*, in violation of WAC 23-06-080.

3) The licensee has the following administrative history during the last five years:

- Six operational violations (such as surveillance recordings, accepting checks with insufficient funds, etc.) resulting in warning letters or NOVAS.¹
- A 2007 Notice of Infraction for a record-keeping violation.
- Administrative charges in 2006 for employing an unlicensed individual to perform card room employee and service supplier duties. The licensee agreed to a 20-day suspension, with 13 days deferred for one year and seven days vacated by a fine of \$12,446.
- A 2009 NOVAS for conducting activity without a license.
- Five verbal warnings for other operational or record-keeping violations.

4) *On October 22, 2009, the licensee provided Commission staff with a personal/criminal history statement, source of funds statement, and financial statement for Fred O'Neal. This is an incomplete response to the initial documentation request from July, 2009. The licensee has still not provided bank statements, cancelled checks, wire details, loan documents, purchase and sale agreements, or a statement as to whether the money from Mr. O'Neal was a gift, or a promissory note accounting for the cash contribution.*

5) *On November 4, 2009, staff received a signed affidavit from Tam Moen, City Clerk, wherein the City of Everett formally requested staff to revoke New Grove's house-banked card room license for issues concerning delinquent gambling taxes.*

6) *On November 4, 2009, a Commission Special Agent (agent) was assigned the file. The agent reviewed a detailed payment history provided by the City of Everett showing tax payments due in the amount of \$38,619.38. The unpaid taxes have accrued since the fourth quarter of 2008.*

Therefore, under RCW 9.46.075(1), (4), (8), and (10) and WAC 230-03-085(1), (3), (4) and (7), grounds exist to suspend or revoke New Grove.

RCW 9.46.075 Denying, suspending, or revoking an application, license or permit

The Commission may deny an application, or suspend or revoke any license or permit issued by it, for any reason or reasons, it deems to be in the public interest. These reasons shall include, but not be limited to, cases wherein the applicant or licensee, or any person with any interest therein: The following subsection applies:

(1) Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the Commission pursuant thereto, or when a violation of any provision of chapter

¹ A Notice of Violation and Settlement (NOVAS) identifies the violation and gives the recipient the opportunity to pay a fine to settle the matter.

9.46 RCW, or any Commission rule, has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control;

WAC 230-03-085 Denying, suspending, or revoking an application, license or permit

We may deny, suspend, or revoke any application, license or permit, when the applicant, licensee, or anyone holding a substantial interest in the applicant's or licensee's business or organization:

The following subsection(s) apply:

(1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075; or

(3) Has demonstrated willful disregard for complying with ordinances, statutes, administrative rules, or court orders, whether at the local, state, or federal level; or

(4) Has failed to pay gambling taxes to local taxing authorities and the local taxing authority has petitioned us to take action.

(7) Fails to provide us with any information required under Commission rules within the time required, or, if the rule establishes no time limit, within thirty days after receiving a written request from us.

WAC 230-06-080 Report changes to application information and submit updated documents and information.

(1) Licensees must notify us in writing if any information filed with the application changes in any way within thirty days of the change.

(2) Licensees must submit to us any new or updated documents and information, including the following:

(a) Articles of incorporation or bylaws, or any other documents which set out the organizational structure and purposes; and

(b) All oral or written contracts and agreements which relate to gambling activities or alter the organizational structure of the licensee's organization or business activities in Washington; and

(c) All cash or asset contributions, draws from lines of credit, and loans (except those from recognized financial institutions) during any calendar year which by themselves or totaled together are more than ten thousand dollars. Cash or asset contributions do not include donations to licensed charitable or nonprofit organizations, which are not subject to the reporting requirements of this rule.

(d) Internal Revenue Service tax deductible status of contributions to nonprofit organizations.

Jurisdiction of this proceeding is based on 9.46 RCW, Gambling, chapter 34.05 RCW, the Administrative Procedure Act, and WAC Title 230.

In order to have a hearing or discuss settlement options, the enclosed request for hearing must be completed and returned to the Gambling Commission **within 23 days** from the date of the mailing of this notice.

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

A circular notary seal for Michelle M. Pardee. The outer ring contains the text "MICHELLE M. PARDEE" at the top and "STATE OF WASHINGTON" at the bottom. Inside this ring, the text "COMMISSION EXPIRES" is at the top and "JUNE 18, 2013" is at the bottom. In the center, the words "NOTARY" and "PUBLIC" are stacked, separated by a horizontal line with a small circle in the middle.

NOTARY PUBLIC in and for the State of
Washington residing at Lacey
My commission expires on June 16, 2013

W. Steedrick
Communications and Legal Department
Washington State Gambling Commission